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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,711	08/15/2001	Jeffrey Thomas Kiesler	9D-DW-19834	1659

7590

08/25/2003

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EXAMINER

CHAUDHRY, SAEED T

ART UNIT

PAPER NUMBER

1746

DATE MAILED: 08/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/930,711

Applicant(s)

KIESLER ET AL.

Examiner

Saeed T Chaudhry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-14 is/are pending in the application.
- 4a) Of the above claim(s) 11-14 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 7-10 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Applicant's amendments and remarks filed June 10, 2003 have been acknowledged by the examiner and entered. Claim 4 has been canceled and claims 1-3, 5-14 are pending in this application for consideration. Of the above claims 11-14 are withdrawn from consideration.

Applicant's election with traverse of Group I, Claims 1-10 in Paper No. 8 is acknowledged. The traversal is on the ground(s) that the office action has not shown that inventions I and II are unrelated. Particularly, the office action has not shown that the inventions are not disclosed as capable of use together. Applicant respectfully submitted that the kit recited in Claims 11-14 has been disclosed as being capable of use with the dishwasher and method of operation of the dishwasher recited in claims 1-10. This is not found persuasive because the kit as claimed in claims 11-14 can be used in a cloth washer or to be used in a water treatment plant.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- (c) he has abandoned the invention.
- (d) the invention was first patented or caused to be patented, or was the subject of an inventor's certificate, by the applicant or his legal representatives or assigns in a foreign country prior to the date of the application for patent in this country on an application for patent or inventor's certificate filed more than twelve months before the filing of the application in the United States.
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international

application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

(f) he did not himself invent the subject matter sought to be patented.

(g) before the applicant's invention thereof the invention was made in this country by another who had not abandoned, suppressed, or concealed it. In determining priority of invention there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.

Claims 1-3 and 5-6 are rejected under 35 U.S.C. § 102(b) as being

anticipated by Alvord.

Alvord (5,803,985) discloses a control system for a dishwasher (10) utilizing a turbidity sensor (24) to achieve an optimum fill cycle water level in a sealable chamber (12) into which soiled dishes are loaded. An electronically actuable fill valve (20) is controlled by a microprocessor (22) in response to signals received from the sensor (24) indicative of the turbidity of water in the chamber (12) during the fill cycle. Once turbidity of the water in the chamber stabilizes or drops to a predefined level, the fill water is determined to have reached an optimum level and the flow of supply water is shut off (see abstract). Using a turbidity sensor, the scattering effect of suspended particulate matter is monitored in order to determine when the pump is receiving enough water and when the water supply should be shut off (see col. 2, lines 10-13). the level of turbidity is monitored through the fill process. When the amount of turbidity decreases below a certain predetermined level or reaches a certain level of stability, a signal from the turbidity sensor indicates to the dishwasher controller that a sufficient amount of water has been received and that the controller should signal the fill valve to close(see col. 2, lines 41-47). Generally sensor 24 includes a light source and one or more light sensitive sensors, between which water from chamber 12 is passed. This

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sensor is preferably disposed in a well formed in the bottom of chamber 12, or alternately in sump 14, or in any position conducive to measuring the turbidity of incoming fill water. Sensor 24, irrespective of type, outputs an electrical signal to controller 22 which is indicative of the sensed level of turbidity (see col. 3, lines 21-34).

water flow may be stopped at a point wherein turbidity has decreased to a specified level such as indicated at 34a. At this point the designated cycle (wash, rinse, etc.) can continue. Turbidity generally increases along segment 34 as dirt or other sediments enter the water as it is being removed from the dishes being washed. In the case where turbidity never reaches a predetermined minimum amount or doesn't reach a defined level of stability, the controller preferably fills the wash chamber to a predetermined maximum level (see col. 4, lines 2-11).

Since the reference discloses that where turbidity never reaches a minimum amount the controller fills the wash chamber to a maximum level. Which inherently turn off the wash cycle and fill the chamber to a maximum level. Further, the reference discloses that sensor 24 outputs an electrical signal to the controller. Therefore, it is anticipate the transitioned from first to second condition.

As the water reaches the sensor 24, an increase in scattering due to the line between water and air is sensed as low frequency at 26. As water rises above sensor 24, frequency rises at 28. During this time, valve 20 is opened to allow an unrestricted flow of water into chamber 12 (see col. 3, lines 42-47). Therefore, the reference discloses to generate a signal if the sensor is in air or in water.

Allowable Subject Matter

Claims 7-10 are allowed over the cited prior art.

Alvord fails to disclose that if an insufficient amount of water has flowed into the tub during the fill operation, terminating a current wash cycle.

Response to Applicant's Arguments

Applicant argued that Alvord does not describe nor suggest a dishwasher as recited in Claim 1. Particularly, Alvord does not describe nor suggest a control mechanism configured to determine whether a sufficient amount of water flows into the tub during a fill operation based on a signal output by the sensor and to terminate the wash cycle if the control mechanism determines that a sufficient amount of water has not flowed into the tub during the fill operation based on the signal output by the sensor.

This argument is not persuasive because Alvord disclose a control mechanism coupled to a sensor and capable of giving the signal to the fill valve to close. For the apparatus claims to be patentable the structure of the claimed apparatus should be different from the cited art. Alvord discloses the controller as claimed herein.

Applicant argued that Alvord describes that if the turbidity never reaches the predetermined minimum amount or the defined level of stability, the controller fills the wash chamber to a predetermined maximum level. This action does not terminate the wash cycle as suggested by the office action.

This argument is not persuasive because Alvord inherently turn off the wash cycle and fill the chamber to a maximum level when the turbidity is not reached at a certain level.

Applicant's arguments filed June 10, 2003 have been fully considered but they are not deemed to be persuasive.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION.

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IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

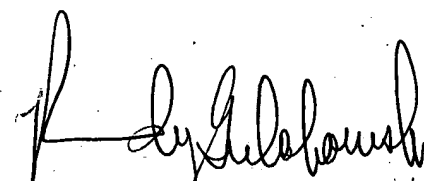
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saeed T. Chaudhry whose telephone number is (703) 308-3319. The examiner can normally be reached on Monday-Friday from 9:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Gulakowski Randy, can be reached on (703)-308-4333. The fax phone number for non-final rejection is (703) 872-9310 and for after final is (703) 872-9311.

When filing a FAX in Gp 1700, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communication with the PTO that are for entry into the file of the application. This will expedite processing of your papers.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

Saeed T. Chaudhry
August 18, 2003



RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700